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12 La Quinta, CA 92253  
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15 Attorneys for Defendant  
16 ATRIUM, INC.

17 SUPERIOR COURT OF CALIFORNIA  
18 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

19 ENVIRONMENTAL RESEARCH  
20 CENTER, a California non-profit  
21 corporation,

22 Plaintiff,

23 vs.

24 ATRIUM, INC., FULL GREEN CIRCLE  
25 CORPORATION, FULL GREEN  
26 CIRCLE LLC, PUREFORMULAS.COM,  
27 and DOES 1-50, Inclusive,

28 Defendants.

Case No.: 30-2012-00606444-CU-MC-CJC

[PROPOSED] STIPULATED CONSENT  
JUDGMENT; [PROPOSED] ORDER

[Health & Safety Code § 25249.5, *et seq.*]

1. INTRODUCTION

1.1 This Action arises out of the alleged violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 *et seq.* (also known as and herein after referred to as "Proposition 65") regarding the following products (hereinafter collectively the "Covered Products" or "Covered Product" to refer to a

1 single product):

- 2 1) Atrium Inc. atri-res
- 3 2) Atrium Inc. garcinia cambogia plus
- 4 3) Atrium Inc. atri-thy-kelp
- 5 4) Atrium Inc. comfrey b&p
- 6 5) Atrium Inc. atri-cleanse
- 7 6) Atrium Inc. Parasit-X
- 8 7) Atrium Inc. Chitosan HD Plus
- 9 8) Atrium Inc. spirulina
- 10 9) Atrium Inc. fibertime
- 11 10) Atrium Inc. Val-Tran
- 12 11) Atrium Inc. Atri-Nerve

13 1.2 Plaintiff Environmental Research Center, Inc. ("ERC") is a California non-profit  
14 corporation acting as a private enforcer of Proposition 65 that is dedicated to, among other  
15 causes, helping safeguard the public from health hazards by reducing the use and misuse of  
16 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,  
17 and encouraging corporate responsibility. ERC brings this Action in the public interest pursuant  
18 to California Health and Safety Code Section 25249.7.

19 1.3 Defendant ATRIUM, INC. is a Wisconsin Corporation. ATRIUM, INC. contends  
20 for a portion of the time period regarding the claims asserted in the Action, ATRIUM, INC.  
21 employed ten or more persons and during that period(s) was a "person in the course of doing  
22 business" within the meaning of Proposition 65. At the time of the execution of this Consent  
23 Judgment, ATRIUM, INC. further contends that it presently employs less than ten employees.  
24 ATRIUM, INC. manufactures, distributes and sells the Covered Products.

25 1.4 ERC and ATRIUM, INC. are hereinafter sometimes referred to individually as a  
26 "Party" or collectively as the "Parties."

27 1.5 On October 21, 2011, pursuant to California Health and Safety Code Section  
28 25249.7(d)(1), ERC served a Notice of Violations of Proposition 65 ("Notice of Violations") on

1 the California Attorney General, other public enforcers, and ATRIUM, INC. A true and correct  
2 copy of the Notice of Violations is attached hereto as Exhibit A.

3 1.6 After more than sixty (60) days passed since service of the Notice of Violations,  
4 and no designated governmental agency filed a complaint against ATRIUM, INC. with regard to  
5 the Covered Products or the alleged violations, ERC filed the Complaint in this Action (the  
6 "Complaint") for injunctive relief and civil penalties. The Complaint is based on the allegations  
7 in the Notice of Violations.

8 1.7 The Complaint and the Notice of Violations each allege that ATRIUM, INC.  
9 manufactured, distributed, and/or sold in California the Covered Products, which contain lead, a  
10 chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and expose  
11 consumers at a level requiring a Proposition 65 warning. They further allege that use of the  
12 Covered Products exposes persons in California to lead without first providing clear and  
13 reasonable warnings, in violation of California Health and Safety Code Section 25249.6.  
14 ATRIUM, INC. denies all material allegations of the Notice of Violations and the Complaint,  
15 asserts numerous affirmative defenses, and specifically denies that the Covered Products require  
16 a Proposition 65 warning or otherwise cause harm to any person. By entering into this Consent  
17 Judgment, ATRIUM, INC. does not admit a violation of state or federal law.

18 1.8 The Parties enter into this Consent Judgment in order to settle, compromise and  
19 resolve disputed claims and avoid prolonged and costly litigation as to all claims currently  
20 known by ERC regarding Proposition 65. Nothing in this Consent Judgment, nor compliance  
21 with its terms, shall constitute or be construed as an admission by any of the Parties, or by any of  
22 their respective officers, directors, shareholders, employees, agents, parent companies,  
23 subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors, wholesalers, or  
24 retailers, of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or  
25 liability, including without limitation, any admission concerning any alleged violation of  
26 Proposition 65. Except as expressly set forth herein, nothing in this Consent Judgment shall  
27 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
28 other or future legal proceeding unrelated to these proceedings. However, nothing in this Section

1 shall affect the enforceability of this Consent Judgment.

2       **1.9** The "Effective Date" of this Consent Judgment shall be the date this Consent  
3 Judgment is entered by the Court.

4       **1.10** The Parties enter this Consent Judgment after extensive negotiations and after  
5 disclosure of financial information revealing the financial condition of ATRIUM, INC., which  
6 disclosure supports the amount of the settlement and results in a settlement of this matter for  
7 costs and fees only. The terms of this Consent Judgment were negotiated concurrently with  
8 ASPEN GROUP, INC., which is a defendant in the matter of ERC v. ASPEN GROUP, INC.,  
9 Orange County Superior Court Case Number 30-2012-00606441. ATRIUM, INC. and ASPEN  
10 GROUP, INC. are related in ownership and control. Therefore, the payments required pursuant  
11 to this Consent Judgment, in Section 4 are jointly and severally owed by ATRIUM, INC. and  
12 ASPEN GROUP, INC.

13 **2. JURISDICTION AND VENUE**

14       For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
15 jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties, that  
16 venue is proper in this Court, and that this Court has jurisdiction to enter this Consent Judgment  
17 pursuant to the terms set forth herein.

18 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING, AND WARNINGS**

19       **3.1** Beginning on the Effective Date, ATRIUM, INC. shall be permanently enjoined  
20 from manufacturing for sale in California, directly selling to a consumer in California or  
21 "Distributing into California" any of the Covered Products for which the maximum daily dose  
22 recommended on the label contains more than 0.5 micrograms of lead, unless such Covered  
23 Product complies with the warning requirements in Section 3.3 or qualifies a "Reformulated  
24 Covered Product" pursuant to Section 3.4. "Distributing into California" and "Distribute into  
25 California" mean to directly ship any of the Covered Products into California for sale or to sell  
26 any of the Covered Products to a distributor that ATRIUM, INC. knows will sell the Covered  
27 Product in California.

28       **3.2** Calculation of Lead Levels

1 As used in this Consent Judgment, lead levels are calculated pursuant to the testing  
2 protocol described in Section 3.5. For purposes of measuring the lead, the highest lead detection  
3 result of the 5 randomly selected samples of the Covered Products will be controlling.

4 **3.3 Clear and Reasonable Warnings.**

5 For those Covered Products that are subject to the warning requirement of Section 3.1,  
6 ATRIUM, INC. shall provide the following warning:

7 **WARNING: This product contains [lead,] a chemical known to the State of**  
8 **California to cause [cancer and] birth defects or other reproductive harm.**

9 The text in brackets in the warning above is optional, except that the term "cancer" must  
10 be included only if the maximum daily dose recommended on the label contains more than 15  
11 micrograms of lead.

12 The warning shall be prominently affixed to or printed upon the Covered Product's label  
13 so as to be clearly conspicuous, as compared with other statements or designs on the label as to  
14 render it likely to be read and understood by an ordinary purchaser or user of the Covered  
15 Product. If the warning is displayed on the Covered Product's label, it shall be at least the same  
16 size as the largest of any other health or safety warnings on the Covered Product and the word  
17 "WARNING" shall be in all capital letters and in bold print.

18 For any Covered Product sold via a website, the warning shall appear on the checkout  
19 page on the website for California consumers relating to any of the Covered Products being sold.

20 ATRIUM, INC. shall not provide any additional information, statements, or comments  
21 regarding Proposition 65 in addition to the Warning, but ATRIUM, INC. may refer customers to  
22 its company website address and provide any information separately on its website.

23 **3.4 Reformulated Covered Products.**

24 A Reformulated Covered Product is one for which the maximum recommended daily  
25 serving on the label contains no more than 0.5 micrograms of lead per day.

26 **3.5 Testing and Quality Control Methodology**

27 (a) Beginning within one year of the Effective Date, ATRIUM, INC. shall test five  
28 (5) randomly selected samples of each of the Covered Products (in the form intended for sale to

1 the end-user) for lead content. The testing requirement does not apply to any of the Covered  
2 Products for which ATRIUM, INC. has provided the warning specified in Section 3.3.

3 (b) Testing for lead shall be performed using Inductively Coupled Plasma-Mass  
4 Spectrometry ("ICP-MS") or any other testing method subsequently agreed to in writing by the  
5 Parties.

6 (c) All testing pursuant to this Consent Judgment shall be performed by an  
7 independent third party laboratory certified by the California Environmental Laboratory  
8 Accreditation Program or an independent third party laboratory that is registered with the United  
9 States Food & Drug Administration.

10 (d) ATRIUM, INC. shall retain all test results and documentation for a period of four  
11 (4) years from the date of the test. ATRIUM, INC. shall provide copies of the test results to ERC  
12 within 10 days of ATRIUM, INC.'s receipt of the test results.

13 (e) ATRIUM, INC. shall test each of the Covered Products at least once a year for a  
14 minimum of four (4) consecutive years by testing five randomly selected samples of each  
15 Covered Product which ATRIUM, INC. intends to sell or is manufacturing for sale in California,  
16 directly selling to a consumer in California, or "Distributing into California. If tests conducted  
17 pursuant to this Section demonstrate that no warning is required for a Covered Product during  
18 each of four (4) consecutive years, then the testing requirements of this Section will no longer be  
19 required as to that Covered Product. However, if during or after the four (4) year period,  
20 ATRIUM, INC. changes ingredient suppliers for any of the Covered Products and/or  
21 reformulates any of the Covered Products, ATRIUM, INC. shall test that Covered Product  
22 annually for at least four (4) consecutive years after such change is made.

23 (f) For purposes of this Consent Judgment, daily lead exposure levels shall be  
24 measured in micrograms, and shall be calculated using the following formula: Micrograms of  
25 lead per gram of product, multiplied by grams per serving of the product (using the largest  
26 serving size appearing on the product label), multiplied by servings of the product per day (using  
27 the largest number of servings in the recommended dosage appearing on the product label),  
28 which equals micrograms of lead exposure per day.

1 **4. SETTLEMENT PAYMENT**

2 4.1 ATRIUM, INC. shall make a total payment of \$37,500.00 within 10 business days  
3 of the Effective Date, which shall be in full and final satisfaction of all potential civil penalties,  
4 payment in lieu of civil penalties, and attorney's fees and costs. The payment will be sent to  
5 counsel for ERC, William F. Wraith, Wraith Law, 16485 Laguna Canyon Road, Suite 250,  
6 Irvine, California, 92618. The payment shall be issued as separate checks apportioned as follows:

7 4.2 \$14,038.66 payable to ERC as reimbursement to ERC for reasonable costs  
8 associated with the enforcement of Proposition 65 and other costs incurred as a result of work in  
9 bringing this Action.

10 4.3 \$16,280.17 payable to William F. Wraith as reimbursement of ERC's attorney's  
11 fees and attorney's costs.

12 4.4 \$7,181.17 payable to Karen Evans as reimbursement of ERC's attorney's fees and  
13 attorney's costs.

14 4.5 Pursuant to Section 1.10, ATRIUM, INC. and ASPEN GROUP, INC. are jointly  
15 and severally responsible for the full amount of the payments required in this Section. Therefore,  
16 each owes the full amount, though only a total of \$37,500.00 is owed between ATRIUM, INC.  
17 and ASPEN GROUP, INC.

18 **5. MODIFICATION OF CONSENT JUDGMENT**

19 This Consent Judgment may be modified only by: (i) Written agreement and stipulation  
20 of the Parties and (ii) upon entry of a modified Consent Judgment by the Court. ERC is entitled  
21 to reimbursement of all reasonable attorneys' fees and costs regarding any modification  
22 requested or initiated by ATRIUM, INC.

23 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

24 6.1 This Court shall retain jurisdiction of this matter to enforce, modify or terminate  
25 this Consent Judgment.

26 6.2 Any Party may, by motion or application for an order to show cause filed with  
27 this Court, enforce the terms and conditions contained in this Consent Judgment. The prevailing  
28 party in any such motion or application may request that the Court award its reasonable

1 attorneys' fees and costs associated with such motion or application.

2 **7. APPLICATION OF CONSENT JUDGMENT**

3 This Consent Judgment shall apply to, be binding upon, and benefit the Parties and their  
4 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
5 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,  
6 wholesalers, retailers, predecessors, successors, and assigns.

7 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

8 **8.1** ERC acting on its own behalf and in the public interest releases ATRIUM, INC.  
9 and its directors, officers, shareholders and affiliates, including Nutri-Pak, (excluding private  
10 label customers) from all claims for violations of Proposition 65 up through the Effective Date  
11 based on exposure to lead from the Covered Products as set forth in the Notice of Violations.  
12 Compliance with the terms of this Consent Judgment shall be deemed to constitute compliance  
13 with respect to exposures to lead from the Covered Products as set forth in the Notice of  
14 Violations and Complaint.

15 **8.2 Unknown Claims**

16 It is possible that other claims not now known to the Parties arising out of the facts  
17 alleged in the Notice of Violations or the Complaint and relating to lead in the Covered Products  
18 that were manufactured before the Effective Date will develop or be discovered. ERC, on behalf  
19 of itself only, waives California Civil Code Section 1542 as to any such unknown claims.  
20 California Civil Code Section 1542 reads as follows:

21 **"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
22 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**  
23 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN**  
24 **BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER**  
25 **SETTLEMENT WITH THE DEBTOR."**

26 **8.3** ERC, on one hand, and ATRIUM, INC., on the other hand, each release and  
27 waive all claims they may have against each other and their respective officers, directors,  
28 employees, agents, representatives, and attorneys for any statements or actions made or

1 undertaken by them or their respective officers, directors, employees, agents, representatives, and  
2 attorneys in connection with the Notice of Violations or this Action.

3 **9. CONSTRUCTION AND SEVERABILITY**

4 9.1 The terms and conditions of this Consent Judgment have been reviewed by the  
5 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to  
6 fully discuss the terms and conditions with its counsel. In any subsequent interpretation or  
7 construction of this Consent Judgment, the terms and conditions shall not be construed against  
8 any Party.

9 9.2 In the event that any of the provisions of this Consent Judgment is held by a court  
10 to be unenforceable, the validity of the remaining enforceable provisions shall not be adversely  
11 affected.

12 9.3 The terms and conditions of this Consent Judgment shall be governed by and  
13 construed in accordance with the laws of the State of California.

14 **10. PROVISION OF NOTICE**

15 All notices required to be given to either Party to this Consent Judgment by the other  
16 shall be in writing and sent to the following agents listed below by: (a) first-class, registered, (b)  
17 certified mail, (b) overnight courier, or (c) personal delivery to the following

18 **For ENVIRONMENTAL RESEARCH CENTER**

19 Chris Heptinstall, Executive Director  
20 Environmental Research Center  
3111 Camino Del Rio North, Suite 400  
San Diego, CA 92108

21 William F. Wraith, Esq.  
22 Wraith Law  
16485 Laguna Canyon Road, Suite 250  
23 Irvine, CA 92618

24 **For ATRIUM, INC.**

25 Gregory R. Oleson, Esq.  
26 Lewis Brisbois Bisgaard & Smith LLP  
78-075 Main Street, Suite 203  
27 La Quinta, CA 92253

28

1 Atrium, Inc.  
2 Attn: Ashley Butler  
3 P.O. Box 469  
4 Green Lake, WI 54941

4 **11. COURT APPROVAL**

5 **11.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
6 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
7 Consent Judgment.

8 **11.2** If the California Attorney General objects to any term in this Consent Judgment,  
9 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
10 prior to the hearing on the motion.

11 **11.3** If this Stipulated Consent Judgment is not approved by the Court despite the  
12 Parties' best efforts, it shall be null and void and have no force or effect.

13 **12. EXECUTION AND COUNTERPARTS**

14 This Stipulated Consent Judgment may be executed in counterparts, which taken together  
15 shall be deemed one document. A facsimile or .pdf signature shall be construed as valid and as  
16 the original signature.

17 **13. ENTIRE AGREEMENT, AUTHORIZATION**

18 **13.1** This Consent Judgment contains the sole and entire agreement and understanding  
19 of the Parties with respect to the entire subject matter herein, and any and all prior discussions,  
20 negotiations, commitments and understandings related hereto. No representations, oral or  
21 otherwise, express or implied, other than those contained herein have been made by any Party.  
22 No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to  
23 exist or to bind any Party.

24 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized  
25 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly  
26 provided herein, each Party shall bear its own fees and costs.

27 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

28 **14.1** This Consent Judgment has come before the Court upon the request of the Parties.

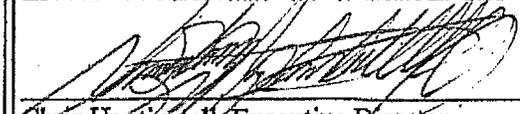
1 The Parties request the Court to fully review this Consent Judgment and, being fully informed  
2 regarding the matters which are the subject of this action, to:

3 (a) Find that the terms and provisions of this Consent Judgment represent a good  
4 faith settlement of all matters raised by the allegations of the Complaint, that the matter has been  
5 diligently prosecuted, and that the public interest is served by such settlement; and

6 (b) Make the findings pursuant to California Health and Safety Code section  
7 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.

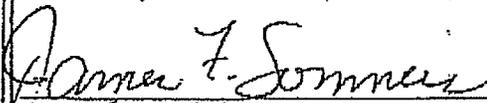
8 **IT IS SO STIPULATED:**

9 **ENVIRONMENTAL RESEARCH CENTER**

10   
11 \_\_\_\_\_  
12 Chris Hepinstall, Executive Director

Dated: 10/23/2013

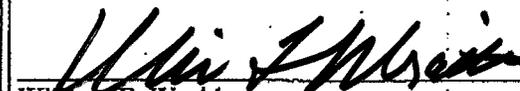
13 **ATRIUM, INC.**

14   
15 \_\_\_\_\_  
16 By: James F. Sommer  
17 Its: President

Dated: 10-23-2013

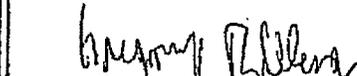
18 **APPROVED AS TO FORM:**

19 **WRAITH LAW**

20   
21 \_\_\_\_\_  
22 William F. Wraith  
23 Counsel for Environmental Research Center

Dated: 10/23/2013

24 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

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26 \_\_\_\_\_  
27 Gregory R. Oleson  
28 Attorneys for Defendant, Atrium, Inc.

Dated: 10-23-13

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**ORDER AND JUDGMENT**

Based upon the Parties' Stipulation, and good cause appearing therefor, this Consent Judgment is approved and judgment is hereby entered according to its terms.  
IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge, Superior Court of the State of California

# **EXHIBIT “A”**

LAW OFFICE OF  
**KAREN A. EVANS**

4218 Biona Place  
San Diego, CA 92116  
Tel: (619) 640-8100  
E-Mail: karen.erc@cox.net

October 21, 2011

**NOTICE OF VIOLATIONS OF  
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.  
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center (“ERC”), 5694 Mission Center Road #199, San Diego, CA 92108. ERC’s Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter “the Violator”) is:

**Atrium, Inc.**

**Consumer Products and Listed Chemicals.** The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Atrium Inc. atri-res - Lead  
Atrium Inc. garcinia cambogia plus - Lead  
Atrium Inc. atri-thy-kelp - Lead

Atrium Inc. comfrey b&p - Lead  
Atrium Inc. atri-cleanse - Lead  
Atrium Inc. Parasit-X - Lead  
Atrium Inc. Chitosan HD Plus - Lead  
Atrium Inc. spirulina - Lead  
Atrium Inc. fibertime - Lead  
Atrium Inc. Val-Tran - Lead  
Atrium Inc. Atri-Nerve - Lead

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least October 21, 2008, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



---

Karen A. Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Atrium, Inc. and its Registered Agent for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center's Notice of Proposition 65 Violations by Atrium, Inc.**

I, Karen A. Evans, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: October 21, 2011

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Karen A. Evans

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On October 21, 2011, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Atrium, Inc.  
P.O. Box 123 South Street  
Coloma, WI 54930

Atrium, Inc.  
10325 Highway 47  
Hebron, IL 60034

Atrium, Inc.  
P.O.Box 700  
Wautoma, WI 54982

Atrium, Inc.  
440-460 S. Townline Road  
Wautoma, WI 54982

Frank Flettenberger, Esq.  
Registered Agent of Aspen Group, Inc.  
125 N. 2<sup>nd</sup> Street  
P.O.Box 406  
Delavan, WI 53191

Steven R. Sorenson, Esq.  
Registered Agent of Aspen Group, Inc.  
620 E Fond Du Lac Street  
P.O.Box 311  
Ripon, WI 54971-0000

On October 21, 2011, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, CA 94612-0550

On October 21, 2011, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

Executed on October 21, 2011, in Fort Oglethorpe, Georgia.



Chris Heptinstall

**Service List**

District Attorney, Alameda County  
1225 Fallon Street, Room 900  
Oakland, CA 94612

District Attorney, Alpine County  
P.O. Box 248  
Markleeville, CA 96120

District Attorney, Amador County  
708 Court Street, #202  
Jackson, CA 95642

District Attorney, Butte County  
25 County Center Drive  
Oroville, CA 95965

District Attorney, Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney, Colusa County  
547 Market Street  
Colusa, CA 95932

District Attorney, Contra Costa County  
900 Ward Street  
Martinez, CA 94553

District Attorney, Del Norte County  
450 H Street, Ste. 171  
Crescent City, CA 95531

District Attorney, El Dorado County  
515 Main Street  
Placerville, CA 95667

District Attorney, Fresno County  
2220 Tulare Street, #1000  
Fresno, CA 93721

District Attorney, Glenn County  
Post Office Box 430  
Willows, CA 95988

District Attorney, Humboldt County  
825 5th Street  
Eureka, CA 95501

District Attorney, Imperial County  
939 West Main Street, Ste 102  
El Centro, CA 92243

District Attorney, Inyo County  
230 W. Line Street  
Bishop, CA 93514

District Attorney, Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney, Kings County  
1400 West Lacey Boulevard  
Hanford, CA 93230

District Attorney, Lake County  
255 N. Forbes Street  
Lakeport, CA 95453

District Attorney, Lassen County  
220 South Lassen Street, Ste. 8  
Susanville, CA 96130

District Attorney, Los Angeles County  
210 West Temple Street, Rm 345  
Los Angeles, CA 90012

District Attorney, Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney, Marin County  
3501 Civic Center, Room 130  
San Rafael, CA 94903

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Post Office Box 730  
Mariposa, CA 95338

District Attorney, Mendocino County  
Post Office Box 1000  
Ukiah, CA 95482

District Attorney, Merced County  
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Merced, CA 95340

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204 S Court Street, Room 202  
Alturas, CA 96101-4020

District Attorney, Mono County  
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District Attorney, Monterey County  
230 Church Street, Bldg 2  
Salinas, CA 93901

District Attorney, Napa County  
931 Parkway Mall  
Napa, CA 94559

District Attorney, Nevada County  
110 Union Street  
Nevada City, CA 95959

District Attorney, Orange County  
401 Civic Center Drive West  
Santa Ana, CA 92701

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

October 21, 2011

Page 7

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Sacramento, CA 9581

District Attorney, San Benito County  
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316 N. Mountain View Avenue  
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District Attorney, Yuba County  
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City Hall East  
200 N. Main Street, Rm 800  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3rd Avenue, Ste 1620  
San Diego, CA 92101

San Francisco City Attorney's Office  
City Hall, Room 234  
1 Drive Carlton B Goodlett Place  
San Francisco, CA 94102

San Jose City Attorney's Office  
200 East Santa Clara Street  
San Jose, CA 95113